

118TH CONGRESS
1ST SESSION

S. 1622

To discourage speculative oil and gas leasing and to promote enhanced multiple use management of public land and National Forest System land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 16, 2023

Ms. CORTEZ MASTO introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To discourage speculative oil and gas leasing and to promote enhanced multiple use management of public land and National Forest System land, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “End Speculative Oil
5 and Gas Leasing Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) Federal land should be managed for mul-
9 tiple uses, resources, and values, including recreation

1 use, grazing use, timber resources, mineral re-
2 sources, watershed management, wildlife and fish
3 habitat, and natural, scenic, scientific, and historic
4 values;

5 (2) section 17(a) of the Mineral Leasing Act
6 (30 U.S.C. 226(a)) authorizes the Secretary of the
7 Interior to offer for lease only land that is “known
8 or believed to contain oil or gas deposits”;

9 (3)(A) in determining whether a parcel of Fed-
10 eral land should be made available for oil and gas
11 leasing and development, and in offering such a par-
12 cel for sale, the Secretary does not meaningfully
13 take into consideration the oil and gas development
14 potential of that parcel; and

15 (B) as a result, the Secretary regularly offers
16 and leases for oil and gas development Federal land
17 that has no or low potential for the development of
18 oil and gas resources (referred to in this section as
19 “no- or low-potential Federal land”);

20 (4)(A) no- or low-potential Federal land is fre-
21 quently leased for or near the minimum lease bid
22 and rarely produce oil or gas resources; and

23 (B) as a result, taxpayers in the United States
24 receive minimal revenue from the leasing of no- or
25 low-potential Federal land;

1 (5) making no- or low-potential Federal land
2 available for oil and gas leasing can result in leases
3 being obtained for speculative purposes;

4 (6) the Secretary wastes taxpayer resources in
5 issuing and managing leases on no- or low-potential
6 Federal land;

7 (7) no- or low-potential Federal land frequently
8 supports other economically important uses, re-
9 sources, and values including the uses, resources,
10 and values described in paragraph (1);

11 (8) the existence of leases on no- and low-poten-
12 tial Federal land can and does limit the ability of
13 the Secretary to support and enhance the uses, re-
14 sources, and values described in paragraph (1); and

15 (9) meaningful public participation in leasing
16 decisions is essential and can help to ensure that the
17 decisions of the Secretary are well-informed and
18 based on current and reliable information and data.

19 **SEC. 3. POLICY.**

20 In accordance with Federal multiple use land man-
21 agement goals, it is the policy of the United States that—

22 (1) the Secretary—

23 (A) shall not, absent exceptional cir-
24 cumstances, offer for lease any Federal land

1 that has low or no potential for the development
2 of oil and gas resources;

3 (B) shall discourage speculation in the
4 Federal onshore oil and gas leasing program;
5 and

6 (C) by not offering for lease Federal land
7 described in subparagraph (A), shall conserve
8 limited Federal resources that can be better ap-
9 plied elsewhere; and

10 (2) the policies described in paragraph (1) are
11 in keeping with, and are not detrimental to, the en-
12 ergy security of the United States.

13 **SEC. 4. DEFINITIONS.**

14 In this Act:

15 (1) DRAINAGE.—The term “drainage” means
16 the migration of hydrocarbons, inert gases (other
17 than helium), or associated resources caused by pro-
18 duction from other wells.

19 (2) FEDERAL LAND.—The term “Federal land”
20 means—

21 (A) public land; and

22 (B) National Forest System land.

23 (3) LAND USE PLAN.—The term “land use
24 plan” means—

1 (A) a land use plan required under sec-
2 tions 201 and 202 of the Federal Land Policy
3 and Management Act of 1976 (43 U.S.C. 1711,
4 1712), including any resource management plan
5 (as defined in section 1601.0–5 of title 43,
6 Code of Federal Regulations (or successor regu-
7 lations)); and

8 (B) a land and resource management plan
9 developed by the Secretary of Agriculture pur-
10 suant to section 6 of the Forest and Rangeland
11 Renewable Resources Planning Act of 1974 (16
12 U.S.C. 1604).

13 (4) PUBLIC LAND.—The term “public land”
14 has the meaning given the term “public lands” in
15 section 103 of the Federal Land Policy and Manage-
16 ment Act of 1976 (43 U.S.C. 1702).

17 (5) REASONABLY FORESEEABLE DEVELOPMENT
18 SCENARIO.—The term “reasonably foreseeable devel-
19 opment scenario” has the meaning given the term in
20 the handbook of the Bureau of Land Management
21 entitled “H—1624–1—Planning for Fluid Mineral
22 Resources” (as in effect on the date of enactment of
23 this Act) and issued pursuant to the Federal Land
24 Policy and Management Act of 1976 (43 U.S.C.
25 1701 et seq.).

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, acting through the Di-
3 rector of the Bureau of Land Management.

4 **SEC. 5. FEDERAL LAND COVERED BY REASONABLY FORE-**
5 **SEEABLE DEVELOPMENT SCENARIO ISSUED**
6 **BEFORE DATE OF ENACTMENT.**

7 (a) IN GENERAL.—With respect to Federal land oth-
8 erwise available for leasing of oil and gas resources pursu-
9 ant to the Mineral Leasing Act (30 U.S.C. 181 et seq.)
10 or the Mineral Leasing Act for Acquired Lands (30 U.S.C.
11 351 et seq.) that is covered by a reasonably foreseeable
12 development scenario issued before the date of enactment
13 of this Act, except as provided in subsection (b), the Sec-
14 retary shall not offer the Federal land for lease unless the
15 reasonably foreseeable development scenario for that land
16 includes an assessment of the oil and gas development po-
17 tential of that land that specifically identifies the potential
18 for all acres subject to decisions on availability for leasing.

19 (b) EXCEPTION FOR DRAINAGE.—

20 (1) IN GENERAL.—The Secretary may offer for
21 lease any Federal land described in subsection (a)
22 without meeting the requirements of that subsection
23 if—

24 (A) the Federal land is adjacent to and
25 within 1 mile of a well producing oil and gas in

1 paying quantities on the date on which the land
2 is offered for leasing;

3 (B)(i) the lease is issued for the purpose of
4 preventing drainage from the adjacent land and
5 the Secretary has determined that an economic
6 well can be drilled; or

7 (ii) the land is included in a State spacing
8 unit; and

9 (C) the Federal land does not exceed 1280
10 acres.

11 (2) REQUIREMENT.—A lease issued under para-
12 graph (1) shall be consistent with the applicable
13 land use plan and all other applicable law.

14 **SEC. 6. FEDERAL LAND NOT COVERED BY CURRENT REA-**
15 **SONABLY FORESEEABLE DEVELOPMENT SCE-**
16 **NARIO.**

17 (a) IN GENERAL.—

18 (1) IN GENERAL.—Except as provided in sub-
19 section (c), if the Secretary determines that Federal
20 land otherwise available for leasing of oil and gas re-
21 sources pursuant to the Mineral Leasing Act (30
22 U.S.C. 181 et seq.) or the Mineral Leasing Act for
23 Acquired Lands (30 U.S.C. 351 et seq.) is not cov-
24 ered by a reasonably foreseeable development sce-
25 nario issued in accordance with this subsection or

1 section 5(a), the Secretary, in cooperation with the
2 Secretary of Agriculture with respect to National
3 Forest System land, shall complete such a reason-
4 ably foreseeable development scenario prior to mak-
5 ing the Federal land available for lease.

6 (2) REQUIREMENTS.—Any reasonably foresee-
7 able development scenario issued on or after the
8 date of enactment of this Act shall, at a minimum—

9 (A) assess and designate all Federal land
10 covered by the reasonably foreseeable develop-
11 ment scenario as having high, moderate, low, or
12 no potential for development of oil and gas re-
13 sources; and

14 (B) publish a map depicting the covered
15 Federal land and the development potential for
16 that Federal land designated under subpara-
17 graph (A).

18 (3) FACTORS.—

19 (A) IN GENERAL.—In completing a reason-
20 ably foreseeable development scenario for Fed-
21 eral land, the Secretary shall take into consider-
22 ation all relevant and available information, in-
23 cluding—

1 (i) past and present exploration and
2 development activity in the vicinity, includ-
3 ing historic trends;

4 (ii) for each lease in the vicinity, the
5 number, location, and types of wells
6 drilled, the representative depth of wells
7 drilled, the number and location of dry
8 holes, the success ratio for wells drilled,
9 and the location, production history, and
10 life expectancy of producing fields;

11 (iii) geological, geophysical, and geo-
12 chemical information for the Federal land,
13 including data and information from the
14 United States Geological Survey, the De-
15 partment of Energy, State agencies, indus-
16 try, professional societies, academic
17 sources, and the public;

18 (iv) structural and stratigraphic data
19 and information relating to basins, fields,
20 and plays on the Federal land; and

21 (v) data and information on the likeli-
22 hood that economically recoverable oil and
23 gas resources are present in a given area,
24 including information submitted by experts
25 and the public.

1 (B) EXPLANATION OF FACTORS.—The
2 Secretary shall document how each factor de-
3 scribed in subparagraph (A) and any other fac-
4 tors considered by the Secretary support the
5 designation of the potential for development of
6 oil and gas resources on the Federal land.

7 (4) OPPORTUNITY FOR PUBLIC PARTICIPA-
8 TION.—In developing a reasonably foreseeable devel-
9 opment scenario under this subsection, the Secretary
10 shall—

11 (A) notify the public that the reasonably
12 foreseeable development scenario is being initi-
13 ated;

14 (B) publish a request for information for
15 the reasonably foreseeable development sce-
16 nario;

17 (C) release a draft version of the reason-
18 ably foreseeable development scenario for a
19 public review and comment for a period of not
20 less than 60 days; and

21 (D) consider and respond to public com-
22 ments in the final version of the reasonably
23 foreseeable development scenario.

24 (b) REGULAR UPDATE.—

1 (1) IN GENERAL.—Not later than 15 years
2 after the date of enactment of this Act, and not less
3 frequently than every 15 years thereafter, the Sec-
4 retary, consistent with subsection (a) and in co-
5 operation with the Secretary of Agriculture with re-
6 spect to National Forest System land, shall review
7 and update all reasonably foreseeable development
8 scenarios covering Federal land.

9 (2) PROHIBITION.—Except as provided in sub-
10 section (c), the Secretary shall not offer for lease
11 any Federal land otherwise available for leasing of
12 oil and gas resources pursuant to the Mineral Leas-
13 ing Act (30 U.S.C. 181 et seq.) or the Mineral Leas-
14 ing Act for Acquired Lands (30 U.S.C. 351 et seq.)
15 unless the Secretary has updated the reasonably
16 foreseeable development scenario covering that Fed-
17 eral land in accordance with paragraph (1).

18 (c) EXCEPTION FOR DRAINAGE.—

19 (1) IN GENERAL.—The Secretary may offer for
20 lease any Federal land otherwise available for leas-
21 ing of oil and gas resources pursuant to the Mineral
22 Leasing Act (30 U.S.C. 181 et seq.) or the Mineral
23 Leasing Act for Acquired Lands (30 U.S.C. 351 et
24 seq.) without completing or updating a reasonably

1 foreseeable development scenario for that land under
2 subsection (a) or (b), as applicable, if—

3 (A) the Federal land is adjacent to and
4 within 1 mile of a well producing oil and gas in
5 paying quantities on the date on which the land
6 is offered for leasing;

7 (B)(i) the lease is issued for the purpose of
8 preventing drainage from the adjacent land and
9 the Secretary has determined that an economic
10 well can be drilled; or

11 (ii) the land is included in a State spacing
12 unit; and

13 (C) the Federal land does not exceed 1280
14 acres.

15 (2) REQUIREMENT.—A lease issued under para-
16 graph (1) shall be consistent with the applicable
17 land use plan and all other applicable law.

18 **SEC. 7. LAND HAVING NO OR LOW DEVELOPMENT POTEN-**
19 **TIAL UNDER A REASONABLY FORESEEABLE**
20 **DEVELOPMENT SCENARIO.**

21 (a) IN GENERAL.—Except as provided in subsections
22 (b) and (c), the Secretary shall not offer for lease any Fed-
23 eral land otherwise available for leasing of oil and gas re-
24 sources pursuant to the Mineral Leasing Act (30 U.S.C.
25 181 et seq.) or the Mineral Leasing Act for Acquired

1 Lands (30 U.S.C. 351 et seq.) if the Federal land is des-
2 ignated in the applicable reasonably foreseeable develop-
3 ment scenario as having low or no potential for develop-
4 ment of oil or gas resources.

5 (b) EXCEPTION FOR DRAINAGE.—

6 (1) IN GENERAL.—The Secretary may offer for
7 lease any Federal land described in subsection (a)
8 if—

9 (A) the Federal land is adjacent to and
10 within 1 mile of a well producing oil and gas in
11 paying quantities on the date on which the land
12 is offered for leasing;

13 (B)(i) the lease is issued for the purpose of
14 preventing drainage from the adjacent land and
15 the Secretary has determined that an economic
16 well can be drilled; or

17 (ii) the land is included in a State spacing
18 unit; and

19 (C) the Federal land does not exceed 1280
20 acres.

21 (2) REQUIREMENT.—A lease issued under para-
22 graph (1) shall be consistent with the applicable
23 land use plan and all other applicable law.

24 (c) VARIANCE PROCESS.—

1 (1) IN GENERAL.—An entity seeking to lease
2 Federal land described in subsection (a) for pur-
3 poses other than the purpose described in subsection
4 (b)(1)(B)(i) may submit to the Secretary an applica-
5 tion for a variance under which the applicant shall
6 bear the full burden of establishing and documenting
7 that providing a variance for the Federal land
8 would—

9 (A) be consistent with decisions contained
10 in the land use plan in effect for the Federal
11 land;

12 (B) affect only areas—

13 (i) with low wildlife, recreation, live-
14 stock, and other multiple-use resource val-
15 ues; and

16 (ii) where impacts to those values
17 arising from the variance can be mitigated;

18 (C) optimize the use of existing infrastruc-
19 ture and avoid duplication of infrastructure and
20 disruption of public land;

21 (D) minimize adverse impacts on fish and
22 wildlife habitats and migration and movement
23 corridors in nearby areas;

24 (E) cause no significant effects on species
25 listed as endangered species or threatened spe-

1 cies under the Endangered Species Act of 1973
2 (16 U.S.C. 1531 et seq.) or the habitats of
3 those species;

4 (F) cause no cumulative impacts on air or
5 water resources of concern that cannot be
6 avoided or minimized;

7 (G) cause no adverse impacts on—

8 (i) units of the National Park System;

9 (ii) units of the National Wildlife Ref-
10 uge System;

11 (iii) areas of critical environmental
12 concern;

13 (iv) components of the National Wil-
14 derness Preservation System; or

15 (v) other special status areas, includ-
16 ing State and local parks and wildlife and
17 recreation areas; and

18 (H) allow the Federal land to be developed
19 in the public interest.

20 (2) OPPORTUNITY FOR PUBLIC PARTICIPA-
21 TION.—

22 (A) IN GENERAL.—On receipt of an appli-
23 cation for a variance under paragraph (1), the
24 Secretary shall—

1 (i) promptly notify the public that the
2 application has been received; and

3 (ii) provide the public with an oppor-
4 tunity to review and comment on the appli-
5 cation, including any supporting docu-
6 ments, for a period of not less than 60
7 days.

8 (B) RESPONSE.—The Secretary shall con-
9 sider and respond in writing to any public com-
10 ments received under subparagraph (A)(ii) be-
11 fore making a determination under paragraph
12 (3)(A).

13 (3) GRANTING OF VARIANCE.—The Secretary
14 may grant a variance for Federal land described in
15 subsection (a) pursuant to an application submitted
16 under paragraph (1), and offer that Federal land for
17 lease, if—

18 (A) the Secretary publishes in the Federal
19 Register a determination that—

20 (i) the applicant met the burden of es-
21 tablishing and documenting that the vari-
22 ance would meet the requirements de-
23 scribed in paragraph (1);

24 (ii) offering the Federal land for
25 lease—

1 (I) would not preclude the use of
2 the Federal land for other uses, in-
3 cluding grazing, fish and wildlife, and
4 recreation uses; and

5 (II) would be managed in accord-
6 ance with the principles of multiple
7 use (as defined in section 103 of the
8 Federal Land Policy and Management
9 Act of 1976 (43 U.S.C. 1702)); and

10 (iii) the variance is in the public inter-
11 est; and

12 (B) the Federal land—

13 (i) is adjacent to land currently pro-
14 ducing oil or gas in commercial quantities
15 on the date on which the variance is grant-
16 ed; and

17 (ii) does not exceed 1280 acres.

18 (4) REQUIREMENT.—A lease issued under para-
19 graph (3) shall be consistent with the applicable
20 land use plan and all other applicable law.

21 (5) LIMITATION.—The Secretary shall not
22 grant more than 1 variance under this subsection
23 per 5-year period to an applicant or to an entity
24 under common ownership or control with the appli-
25 cant.

1 **SEC. 8. EFFECT.**

2 (a) **MULTIPLE USE CONSIDERATIONS.**—Nothing in
3 this Act, including a determination under a reasonably
4 foreseeable development scenario issued pursuant to this
5 Act that Federal land has high or moderate potential for
6 development of oil and gas resources, alters—

7 (1) the requirements under section 202(c) of
8 the Federal Land Policy and Management Act of
9 1976 (43 U.S.C. 1712(c)) that prior to offering for
10 lease any public land otherwise available for leasing
11 of oil and gas resources pursuant to the Mineral
12 Leasing Act (30 U.S.C. 181 et seq.) or the Mineral
13 Leasing Act for Acquired Lands (30 U.S.C. 351 et
14 seq.), the Secretary shall consider and weigh the
15 multiple use and sustained yield values of the public
16 land;

17 (2) the requirements of subsections (b) and (e)
18 of section 6 of the Forest and Rangeland Renewable
19 Resources Planning Act of 1974 (16 U.S.C. 1604)
20 that prior to offering for lease any National Forest
21 System land otherwise available for leasing of oil
22 and gas resources pursuant to the Mineral Leasing
23 Act (30 U.S.C. 181 et seq.) or the Mineral Leasing
24 Act for Acquired Lands (30 U.S.C. 351 et seq.), the
25 Secretary of Agriculture shall consider and weigh

1 the multiple use and sustained yield values of the
2 National Forest System land; or

3 (3) any other applicable requirements of law.

4 (b) NEPA.—Nothing in this Act modifies, alters, or
5 impacts the applicability of the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321 et seq.) to the leasing
7 of Federal land by the Secretary.

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